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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/161673

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 31, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance (MA), a telephonic hearing was held on December 09, 2014.

The issue for determination is whether the OIG correctly denied a request for the MA coverage of a MRI Brain (head), with and without contrast for petitioner.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: written submittal of Robert Derendinger  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

## **FINDINGS OF FACT**

1. Petitioner is a resident of Kenosha County.
2. On October 21, 2014, a prior authorization request (PA# [REDACTED]) was submitted to MedSolutions on the petitioner's behalf for a MRI of her head, with and without contrast. The request was made by Mark Peterson, PA, with Aurora Advanced Health Care.
3. On October 22, 2014 MedSolutions denied the request, and written notice of denial was issued to the petitioner by the Department of Health Services. The petitioner timely appealed.
4. The basis for the denial was that the petitioner did not meet the head imaging guidelines to show the medical necessity of the service.

## **DISCUSSION**

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The OIG has made payment of MRIs subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice, as well as to apply national clinical guidelines for imaging services. This prior authorization requirement was announced to providers in an *MA Update*, #2010-92, issued to all providers in October, 2010.

The instant prior authorization request was denied because, as the OIG has confirmed, that MedSolutions (the agency's radiology benefits manager) did not find that petitioner's medical history met the agency's advanced imaging guidelines to show that the requested MRI was medically necessary. MedSolutions determined that petitioner did not meet the Head Imaging Guidelines as her clinical information submitted did not show any recent labs to show a recurrence of pituitary adenoma, a previous MRI showed a normal pituitary gland as of 6 years ago, and she has no demonstrated changes to her vision, and there was no showing of neurological signs or symptoms. The OIG outlined those Guidelines in its letter dated December 1, 2014 (Exhibit 1). Given the evidence that the agency had to work with at the time of the denial decision, the decision was correct. Because the OIG's policy of requiring that members meet the clinical guidelines was reasonable here in using consistent, across the board, national clinical guidelines, the CT denial will be upheld.

I also add that if a provider does not inform a recipient that a procedure or service requires prior authorization, and performs the service before submitting a prior authorization request or receiving an approval, and then submits a claim for services rendered which is rejected, the recipient may not be held liable. This is stated in the Wisconsin Administrative Code as follows:

When a service must be authorized by the department in order to be covered, the recipient may not be held liable by the certified provider unless the prior authorization was denied by the department and the recipient was informed of the recipient's personal liability before provision of the service. In that case the recipient may request a fair hearing. Negligence on the part of the certified provider in the prior authorization process shall not result in recipient liability.

Wis. Adm. Code §DHS 104.01(12)(c).

It is again suggested that petitioner follow up with her provider and show the provider the agency's December 1, 2014 letter. In that letter, the OIG suggests that a brain MRI without contrast could be allowable, but that the provider needs to provide that information to the agency to show that the most proper imaging modality is being requested.

## CONCLUSIONS OF LAW

The OIG correctly denied a request for the MA coverage of a MRI brain, with and without contrast, for petitioner as the information submitted did not show that she meets the agency's national clinical guidelines for that service.

**THEREFORE, it is**

**ORDERED**

The petition for review herein is dismissed.

## **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

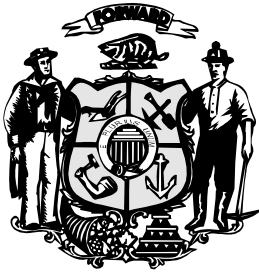
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 12th day of January, 2015

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 12, 2015.

Division of Health Care Access and Accountability